



Redacted

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PABBAN DEVELOPMENT, INC.,

Plaintiff,

vs.

KYPHON SARL, et al.

Defendants.

CASE NO. SACV 10-533 BRO(RNBx)

FINAL VERDICT FORM

AND RELATED COUNTERCLAIMS.

Jet
zks

Breach Of Contract

1. Did Kyphon Sàrl ("Kyphon") breach the August 7, 2008 Asset Purchase Agreement between Kyphon Sàrl and Pabban Development, Inc. ("Pabban")?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, skip to question 5.

2. What amount of damages, if any, did Pabban suffer as a result of Kyphon's breach of the Asset Purchase Agreement?

\$ 15,416,000

3. Did Medtronic, Inc. ("Medtronic") breach the guaranty provision of the Asset Purchase Agreement?

☐ Yes ☒ No

If your answer to question 3 is yes, then answer question 4. If you answered no, skip to question 5.

4. What amount of damages, if any, did Pabban suffer as a result of Medtronic's breach of the guaranty provision of the Asset Purchase Agreement?

\$ _____

1 5. Did Pabban breach the Asset Purchase Agreement?

2
3 _____ Yes ☒ No
4

5 If your answer to question 5 is yes, then answer question 6. If you answered
6 no, skip to question 7.
7

8 6. What amount of damages, if any, did Kyphon suffer as a result of Pabban's
9 breach of the Asset Purchase Agreement?

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11 \$ _____
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Fraud

7. Did Pabban commit fraud?

_____ Yes ☒ No

Regardless of your answer to question 7, answer question 8.

8. Did Nick Herbert commit fraud?

_____ Yes ☒ No

Regardless of your answer to question 8, answer question 9.

9. Did Bio-Medical Devices, Inc. commit fraud?

_____ Yes ☒ No

Regardless of your answer to question 9, answer question 10.

10. Did Bio-Medical Devices International, Inc. commit fraud?

_____ Yes ☒ No

If your answer to questions 7, 8, 9 or 10 is yes, then answer question 11. If your answered no to questions , 7, 8, 9 and 10, stop here, answer no further questions, and have the Foreperson sign and date this form.

1 11. What amount of damages, if any, did Kyphon suffer as a result of the fraud?
2 In determining the amount of damages for fraud, if any, you should not consider the
3 damages you may have awarded Kyphon for breach of contract.

4
5 \$ _____
6

7 **Intentional or Reckless Conduct**

8
9 12. If you found that Pabban committed fraud, do you also find that Pabban acted
10 intentionally or recklessly?

11 _____ Yes _____ No
12

13
14 Regardless of your answer to question 12, answer question 13.

15
16 13. If you found that Nick Herbert committed fraud, do you also find that Nick
17 Herbert acted intentionally or recklessly?

18 _____ Yes _____ No
19

20
21 Regardless of your answer to question 13, answer question 14.

22
23 14. If you found that Bio-Medical Devices, Inc. committed fraud, do you also
24 find that Bio-Medical Devices, Inc. acted intentionally or recklessly?

25 _____ Yes _____ No
26

27
28 Regardless of your answer to question 14, answer question 15.

1
2 15. If you found that Bio-Medical Devices International, Inc. committed fraud, do
3 you also find that Bio-Medical Devices International, Inc. acted intentionally
4 or recklessly?

5
6 _____ Yes _____ No

7
8 If your answer to question 12, 13, 14, or 15 was Yes, answer question 16.

9
10 16. We award punitive damages in the amount of \$ _____.

11
12
13 **Foreperson's Signature**

14
15
16 Signed: _____

17
18 Dated: MAY 8, 2014

19
20 After this entire verdict form has been completed and signed, notify the clerk that
21 you are ready to present your verdict in the courtroom.